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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,528	03/28/2001	Hideaki Yagi	Q63199	2879

7590

07/01/2003

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EXAMINER

TUNG, TA HSUNG

ART UNIT

PAPER NUMBER

1753

DATE MAILED: 07/01/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/818,528

Applicant(s)

YAGI

127AL

Examiner

T. TUNG

Group Art Unit

1753

Paper No. 6

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 5/16/03
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-18 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-18 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☒ Other translation of JP 05-087773

Office Action Summary

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Claims 1, 7-14, 16, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan 05-087773.

Applicant argues that Japan does not disclose a gas diffusion control means that controls the measurement gas in a manner such that the pumping current varies with the pressure of the measurement gas.

This argument is non-persuasive and appears to contradict the discussion at paragraph 0012, lines 9-11, of the machined-generated translation of the reference (a copy is attached for applicant's convenience). Japan states that the sensor's current is restricted by the oxygen density and the diffusion capacity of the diffusion barrier 27. The oxygen density is, of course, directly related to its partial pressure. Thus, it is clear that the current generated by Japan will vary in accordance with the pressure of the measurement gas.

Claims 1, 7-14, 16, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '773 in view of Friese et al 5,368,713.

Applicant merely argues that Friese does not cure the deficiencies of the primary reference (i.e. the diffusion control means). This is not a separate and distinct argument, and does not traverse the obvious combination of the references. Thus, no further comment is needed.

Claims 15, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '773, with or without Friese et al, in view of Kato et al 5,866,799.

Claims 5, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '773 in view of Friese et al and Radford et al 3,843,400.

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Claims 3, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '773 in view of Friese et al and Kimura et al 4,224,113.

Claims 5, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '773 in view of Friese et al, Kimura et al and Radford et al.

For the four preceding rejections, applicant also merely argues that the secondary references do not cure the deficiencies of the primary reference. This is not a separate and distinct argument, and no further comment is needed.

It is noted that in claim 12, line 2, "the first cathode" and line 4, "the second cathode" do not have antecedent basis.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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The examiner can be reached at 703-308-3329. His supervisor Nam Nguyen can be reached at 703-308-3322. Any general inquiry should be directed to the receptionist at 703-308-0661. A fax number for TC 1700 is 703-872-9311.



Ta Tung

Primary Examiner

Art Unit 1753